



This Recommended Order and Decision became the Order and Decision of the
Illinois Human Rights Commission on 10/07/04.

**STATE OF ILLINOIS
HUMAN RIGHTS COMMISSION**

IN THE MATTER OF:)	
)	
REBECCA CORONA,)	
)	
)	
Complainant,)	
)	Charge No.: 2002CF1030
and)	EEOC No.: N/A
)	ALS No.: 12050
LEMON SCENTS CLEANERS,)	
)	
)	
Respondent.)	

RECOMMENDED ORDER AND DECISION

On or about November 1, 2001, Complainant, Rebecca Corona, filed a charge of discrimination with the Illinois Department of Human Rights (IDHR). That charge alleged that Respondent, Lemon Scents Cleaners, discriminated against Complainant on the basis of her ancestry when it paid her lower wages than other employees and discharged her.

Respondent failed to file a verified response to Complainant's charge and failed to appear for IDHR's scheduled fact-finding conference. As a result, the IDHR issued a Notice of Default against Respondent and filed a Petition for Hearing to Determine Complainant's Damages with the Illinois Human Rights Commission. The Commission granted IDHR's petition, and the requested hearing for damages was held on May 12, 2003.

Despite being served with notice, Respondent did not appear

at the scheduled damages hearing. Complainant, though, appeared and presented her evidence. The matter is ready for decision.

FINDINGS OF FACT

The following findings of fact were derived from the record file in this case and from the evidence presented at the damages hearing.

1. Respondent, Lemon Scents Cleaners, hired Complainant, Rebecca Corona, in 1994.

2. Complainant is of Hispanic ancestry.

3. In May of 2001, Complainant learned that non-Hispanic co-workers who were performing the same job were making more money than she was. Complainant was paid \$400.00 per week while non-Hispanic workers received \$600.00 per week.

4. Complainant brought the pay discrepancy to the attention of Respondent's owner, but no action was taken to correct the situation.

5. On October 9, 2001, Respondent discharged Complainant.

6. Respondent replaced Complainant with a non-Hispanic worker.

7. Complainant was unable to find another job until approximately Thanksgiving of 2002. That new job paid her \$10.00 per hour for forty hours per week.

8. Complainant does not want to be reinstated to her former position with Respondent.

CONCLUSIONS OF LAW

1. As a result of the default entered against Respondent, there are no liability issues to address.

2. Complainant waived her right to reinstatement.

DISCUSSION

On March 26, 2003, a panel of the Human Rights Commission entered an order of default against Respondent, Lemon Scents Cleaners. As a result of that order, there are no liability issues to address. Only damages issues remain to be determined.

There are two claims in this case, unequal pay and discharge. They require slightly different analyses. The equal pay issue will be considered first.

Under section 7A-102(A)(1) of the Human Rights Act, 775 ILCS 5/1-101 *et seq.*, a charge of discrimination must be filed "within 180 days after the date that a civil rights violation allegedly has been committed." That 180-day period is a jurisdictional requirement. **Larrance v. Human Rights Commission**, 166 Ill. App. 3d 224, 519 N.E.2d 1202 (4th Dist. 1988); **Pickering v. Illinois Human Rights Commission**, 146 Ill. App. 3d 340, 496 N.E.2d 746 (2d Dist. 1986). When dealing with situations involving unequal pay, each new payment is a new violation of the Human Rights Act. **Troyer and Northtown Ford**, 14 Ill. HRC Rep. 392 (1984), *aff'd sub nom Northtown Ford v. Illinois Human Rights Commission*, 171 Ill. App. 3d 479, 525 N.E.2d 1215 (4th Dist. 1988).

Complainant filed her charge of discrimination on or about

November 1, 2001. May 6, 2001 was 180 days back from that filing date. Thus, any unequal payment after May 6, 2001 is recoverable in this action.

Complainant was discharged on October 9, 2001. There were approximately 25 weeks between May 6 and October 9. Thus, the proper backpay award for Complainant up to the time of her discharge is \$200.00 per week for 25 weeks, or \$5,000.00.

Complainant also is entitled to backpay on her discharge claim. There were approximately 59 weeks between her discharge on October 9, 2001 and the time she secured a new job around Thanksgiving of 2002. Since she should have been earning \$600.00 per week, she is entitled to 59 weeks of backpay at that rate, or \$35,400.00. Adding that figure to the backpay up to the date of her discharge leaves a total backpay award in this case of \$40,400.00.

A prevailing complainant is presumed to be entitled to reinstatement to the job lost due to unlawful discrimination. However, at the damages hearing, Complainant indicated that she is not interested in reinstatement. As a result, backpay liability should terminate at the point she obtained her current job and reinstatement is not recommended.

Prejudgment interest on the backpay award is recommended. Because of the delay in her receipt of the money owed her, such interest is necessary to make Complainant whole.

Respondent should be ordered to clear Complainant's

personnel records of any references to this action or to the underlying charge. In addition, Respondent should be ordered to cease and desist from further unlawful discrimination on the basis of ancestry.

RECOMMENDATION

Based upon the foregoing, it is recommended that an order be entered awarding Complainant the following relief:

A. That Respondent pay to Complainant the sum of \$40,400.00 for lost backpay;

B. That Respondent pay to Complainant prejudgment interest on the backpay award, such interest to be calculated as set forth in 56 Ill. Adm. Code, Section 5300.1145;

C. That Respondent clear from Complainant's personnel records all references to the filing of the underlying charge of discrimination and the subsequent disposition thereof;

D. That Respondent be ordered to cease and desist from further unlawful discrimination on the basis of ancestry.

HUMAN RIGHTS COMMISSION

BY: _____
MICHAEL J. EVANS
ADMINISTRATIVE LAW JUDGE
ADMINISTRATIVE LAW SECTION

ENTERED: September 9, 2003